

Senate Study Bill 1132 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON SCHULTZ)

A BILL FOR

1 An Act relating to benefits concerning members of the municipal
2 fire and police retirement system.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 411.1, subsection 14, Code 2023, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 14. "*Member in good standing*" means any member in service
5 who has not been terminated by the employing city of the
6 member pursuant to section 400.18 or 400.19. Termination
7 procedures initiated by the chief of police or chief of the
8 fire department pursuant to section 400.19 shall not become
9 final or adversely impact a member's status as a member in
10 good standing until all appeals provided by an applicable
11 collective bargaining agreement or by law have been exhausted.
12 Disciplinary action other than discharge shall not adversely
13 affect a member's status as a member in good standing.

14 Sec. 2. Section 411.1, Code 2023, is amended by adding the
15 following new subsection:

16 NEW SUBSECTION. 15A. "*Ordinary disability beneficiary*"
17 means a member retired on an ordinary disability retirement
18 benefit pursuant to section 411.6, subsection 3, for five years
19 or less.

20 Sec. 3. Section 411.6, subsection 5, paragraphs a and b,
21 Code 2023, are amended to read as follows:

22 a. Upon application to the system, of a member in good
23 standing, of an ordinary disability beneficiary, or of the
24 chief of the police or fire departments, respectively, any
25 member in good standing or ordinary disability beneficiary
26 who has become totally and permanently incapacitated for duty
27 as the natural and proximate result of an injury or disease
28 incurred in or aggravated by the actual performance of duty
29 ~~at some definite time and place~~ or arising out of and in the
30 course of the employment, or while acting pursuant to order,
31 outside of the city by which the member is regularly employed,
32 shall be retired by the system if the medical board certifies
33 that the member or ordinary disability beneficiary is mentally
34 or physically incapacitated for further performance of duty,
35 that the incapacity is likely to be permanent, and that the

1 member or ordinary disability beneficiary should be retired.
2 However, if a person's membership in the system first commenced
3 on or after July 1, 1992, the member or ordinary disability
4 beneficiary shall not be eligible for benefits with respect to
5 a disability which would not exist, but for a medical condition
6 that was known to exist on the date that membership commenced.
7 A medical condition shall be deemed to have been known to exist
8 on the date that membership commenced if the medical condition
9 is reflected in any record or document completed or obtained
10 in accordance with the system's medical protocols pursuant to
11 section 400.8, or in any other record or document obtained
12 pursuant to an application for disability benefits from the
13 system, if such record or document existed prior to the date
14 membership commenced. A member who is denied a benefit under
15 this subsection, by reason of a finding by the medical board
16 that the member is not mentally or physically incapacitated
17 for the further performance of duty, shall be entitled to
18 be restored to active service in the same position held
19 immediately prior to the application for disability benefits.
20 *b.* If a member in service or the chief of the police or
21 fire departments becomes incapacitated for duty as a natural
22 or proximate result of an injury or disease incurred in or
23 aggravated by the actual performance of duty ~~at some definite~~
24 ~~time or place~~ or arising out of or in the course of the
25 employment, or while acting, pursuant to order, outside the
26 city by which the member is regularly employed, the member,
27 upon being found to be temporarily incapacitated following a
28 medical examination as directed by the city, is entitled to
29 receive the member's full pay and allowances from the city's
30 general fund or trust and agency fund until reexamined as
31 directed by the city and found to be fully recovered or until
32 the city determines that the member is likely to be permanently
33 disabled. If the temporary incapacity of a member continues
34 more than sixty days, or if the city expects the incapacity
35 to continue more than sixty days, the city shall notify the

1 system of the temporary incapacity. Upon notification by a
2 city, the system may refer the matter to the medical board for
3 review and consultation with the member's treating physician
4 during the temporary incapacity. Except as provided by this
5 paragraph, the board of trustees of the statewide system has no
6 jurisdiction over these matters until the city determines that
7 the disability is likely to be permanent.

8 Sec. 4. Section 411.6, subsection 5, Code 2023, is amended
9 by adding the following new paragraph:

10 NEW PARAGRAPH. *Od.* Disease under this subsection shall
11 also mean any incapacitating mental disorder arising out of
12 and in the course of the employment, or while acting, pursuant
13 to order, outside the city by which the member is regularly
14 employed. A disease shall qualify as an incapacitating mental
15 disorder irrespective of the absence of similar effects on
16 other members.

17 Sec. 5. Section 411.6, subsection 6, Code 2023, is amended
18 by adding the following new paragraph:

19 NEW PARAGRAPH. *d.* (1) Upon a determination on or after
20 July 1, 2023, that an ordinary disability beneficiary is
21 entitled to a retirement for accidental disability, the
22 beneficiary shall receive an accidental disability retirement
23 allowance which shall consist of a pension in an amount that is
24 equal to the greater of sixty percent of the member's average
25 final compensation or the retirement allowance that the member
26 would receive under subsection 2 if the member had attained
27 fifty-five years of age, or an amount equal to the ordinary
28 disability retirement allowance previously received by the
29 beneficiary, whichever is greater.

30 (2) An accidental disability allowance under this paragraph
31 shall commence effective the first day of the first month
32 following the determination that the ordinary disability
33 beneficiary is entitled to a retirement for accidental
34 disability.

35 Sec. 6. Section 411.6, subsection 9, paragraph a,

1 subparagraph (1), Code 2023, is amended to read as follows:

2 (1) If, upon the receipt of evidence and proof from the
3 chief of the police or fire department that the death of a
4 member in service was the natural and proximate result of an
5 injury or disease incurred in or aggravated by the actual
6 performance of duty ~~at some definite time and place~~ or arising
7 out of and in the course of the employment, or while acting
8 pursuant to order, outside of the city by which the member is
9 regularly employed, the system decides that death was so caused
10 in the performance of duty, there shall be paid, in lieu of the
11 ordinary death benefit provided in [subsection 8](#), an accidental
12 death benefit as set forth in [this subsection](#).

13 Sec. 7. Section 411.6, subsection 16, Code 2023, is amended
14 by adding the following new paragraph:

15 NEW PARAGRAPH. *d.* A person otherwise eligible to receive an
16 ordinary or accidental disability retirement benefit under this
17 chapter shall not be eligible to receive such a benefit if the
18 person is subsequently determined to be ineligible pursuant to
19 section 400.18 or 400.19, or other comparable process. Upon
20 determination of ineligibility pursuant to this paragraph,
21 the person's entitlement to a disability benefit under this
22 chapter shall terminate and any disability retirement allowance
23 received by such a person must be returned to the system
24 together with interest earned on the disability retirement
25 allowance calculated at a rate determined by the system.
26 However, the determination of ineligibility as provided under
27 this paragraph may be waived for good cause as determined by
28 the board. The burden of establishing good cause is on the
29 person who received the disability retirement allowance.

30 Sec. 8. Section 411.8, subsection 1, paragraph f,
31 subparagraph (8), Code 2023, is amended to read as follows:

32 (8) Beginning July 1, 1996, and each fiscal year thereafter,
33 an amount equal to the member's contribution rate times each
34 member's compensation shall be paid to the fund from the
35 earnable compensation of the member. For the purposes of this

1 subparagraph, the member's contribution rate shall be nine and
2 thirty-five hundredths percent ~~or, beginning July 1, until June~~
3 30, 2009, nine and four-tenths percent until June 30, 2023,
4 and, beginning July 1, 2023, nine and fifty-five hundredths
5 percent. However, the system shall increase the member's
6 contribution rate as necessary to cover any increase in cost
7 to the system resulting from statutory changes which are
8 enacted by any session of the general assembly meeting after
9 January 1, 1991, if the increase cannot be absorbed within
10 the contribution rates otherwise established pursuant to this
11 paragraph, but subject to a maximum employee contribution rate
12 of eleven and three-tenths percent or, beginning July 1, 2009,
13 eleven and thirty-five hundredths percent. The contribution
14 rate increases specified in 1994 Iowa Acts, ch. 1183, pursuant
15 to [this chapter](#) and [chapter 97A](#) shall be the only member
16 contribution rate increases for these systems resulting from
17 the statutory changes enacted in 1994 Iowa Acts, ch. 1183, and
18 shall apply only to the fiscal periods specified in 1994 Iowa
19 Acts, ch. 1183. After the employee contribution reaches eleven
20 and three-tenths percent or eleven and thirty-five hundredths
21 percent, as applicable, sixty percent of the additional cost
22 of such statutory changes shall be paid by employers under
23 paragraph "c" and forty percent of the additional cost shall be
24 paid by employees under this paragraph.

25 Sec. 9. Section 411.15, Code 2023, is amended to read as
26 follows:

27 **411.15 Hospitalization and medical attention.**

28 1. a. Cities shall provide hospital, nursing, and medical
29 attention for the members of the police and fire departments
30 of the cities, when injured while in the performance of their
31 duties as members of such department, ~~and~~ or for injuries and
32 diseases arising out of and in the course of the employment.

33 b. Cities shall continue to provide hospital, nursing, and
34 medical attention for injuries or diseases incurred while in
35 the performance of their duties or arising out of and in the

1 course of the employment for members or beneficiaries receiving
2 a retirement allowance under section 411.6, subsection 6.

3 2. a. Cities may fund the cost of the hospital, nursing,
4 and medical attention required by this section through the
5 purchase of insurance, by self-insuring the obligation, or
6 through payment of moneys into a local government risk pool
7 established for the purpose of covering the costs associated
8 with the requirements of this section. ~~However, the cost of~~
9 ~~the hospital, nursing, and medical attention required by this~~
10 ~~section shall not be funded through an employee-paid health~~
11 ~~insurance policy.~~

12 b. A member or beneficiary shall not be required to pay the
13 cost of the hospital, nursing, and medical attention required
14 by this section, including but not limited to any costs
15 or premiums associated with any insurance policy providing
16 coverage for the hospital, nursing, and medical attention.

17 c. The cost of the hospital, nursing, and medical attention
18 required by this section shall be paid from moneys held in a
19 trust and agency fund established pursuant to section 384.6,
20 or out of the appropriation for the department to which the
21 injured person belongs or belonged; provided that any amounts
22 received by the injured person from any other source for such
23 specific purposes, shall be deducted from the amount paid by
24 the city under the provisions of this section.

25 3. a. For purposes of this subsection, "date of the
26 occurrence of the injury or disease" means the date that the
27 member or beneficiary knew or should have known that the injury
28 or disease was work-related.

29 b. To be provided the cost of the hospital, nursing, and
30 medical attention required by this section, the city or the
31 city's representative shall have actual knowledge of the
32 occurrence of an injury or disease or be provided notice of the
33 occurrence of an injury or disease on behalf of a member or
34 beneficiary within ninety days from the date of the occurrence
35 of the injury or disease.

1 c. (1) Except as provided in subparagraph (2), an action
2 to require the city to provide the cost of hospital, nursing,
3 and medical attention required by this section shall not be
4 maintained unless the action is commenced before the later of
5 any of the following:

6 (a) Two years from the date of the occurrence of the injury
7 or disease.

8 (b) Two years from the date the city denies a claim to
9 provide hospital, nursing, and medical attention required by
10 this section.

11 (2) An action to require the city to provide the cost of
12 the hospital, nursing, and medical attention required by this
13 section for a disease as defined in section 411.6, subsection
14 5, shall not be maintained unless the action is commenced
15 within five years from the last date of employment of the
16 member.

17 EXPLANATION

18 The inclusion of this explanation does not constitute agreement with
19 the explanation's substance by the members of the general assembly.

20 This bill concerns benefits to members under the municipal
21 fire and police retirement system established under Code
22 chapter 411.

23 Code section 411.1, concerning definitions, is amended. The
24 bill defines an "ordinary disability beneficiary" as a member
25 retired on an ordinary disability retirement benefit for five
26 years or less. The bill also amends the definition of "member
27 in good standing" to mean any member in service who has not
28 been terminated by the employing city of the member.

29 Code section 411.6(5), concerning accidental disability
30 benefits, is amended to allow an ordinary disability
31 beneficiary to make application to the retirement system for an
32 accidental disability retirement benefit. The subsection is
33 further amended to provide that a person is entitled to pay and
34 allowances if determined to be temporarily incapacitated prior
35 to an accidental disability retirement determination and for

1 an accidental disability retirement if the person has become
2 totally and permanently incapacitated as a result of injury and
3 disease arising out of and in the course of the employment and
4 by the actual performance of duty without regard to whether
5 that actual performance of duty was at some definite time and
6 place. The subsection is also amended to provide that disease
7 for purposes of an accidental disability benefit also means any
8 incapacitating mental disorder arising out of and in the course
9 of the employment, or while acting, pursuant to order, outside
10 the city by which the member is regularly employed.

11 Code section 411.6(6), providing for a retirement allowance
12 upon retirement for accidental disability, is amended to
13 provide that an ordinary disability beneficiary who is
14 determined to be entitled to a retirement for accidental
15 disability on or after July 1, 2023, shall receive a retirement
16 allowance that shall consist of the greater of an amount as
17 determined for members receiving an accidental disability
18 retirement or an amount equal to the disability retirement
19 allowance previously received by the beneficiary.

20 Code section 411.6(9), concerning accidental death benefits,
21 is amended to provide that an accidental death benefit shall
22 also be paid if the death was as a result of injury and disease
23 arising out of and in the course of the employment or by the
24 actual performance of duty without regard to whether that
25 actual performance of duty was at some definite time and place.

26 Code section 411.6(16), concerning ineligibility for
27 disability benefits, is amended to provide that a person
28 otherwise eligible to receive a disability retirement shall
29 not be eligible if the person is determined to be ineligible
30 pursuant to Code section 400.18 or 400.19, or other comparable
31 process. The bill provides for the repayment of benefits paid
32 prior to the determination of ineligibility.

33 Code section 411.8, concerning the method of financing
34 the retirement system, is amended by increasing the employee
35 contribution rate from 9.4 percent of pay to 9.55 percent of

1 pay beginning July 1, 2023.

2 Code section 411.15, concerning cities' requirement to
3 provide hospitalization and medical attention for injuries
4 or diseases while on duty, is amended to provide that such
5 attention shall also be provided for injuries arising out
6 of and in the course of employment. The Code section is
7 further amended to provide that cities shall continue to
8 provide hospitalization and medical attention for injuries or
9 diseases while on duty for members or beneficiaries receiving
10 any retirement allowance under Code section 411.6 and not
11 just an accidental disability retirement allowance under
12 Code section 411.6(6). The Code section is further amended
13 to provide that a member shall not be required to pay the
14 cost of hospital, nursing, and medical attention required,
15 including payment of any costs or premiums associated with any
16 insurance policy providing coverage. The bill further provides
17 that to be provided the cost of the hospital, nursing, and
18 medical attention, the city shall have actual knowledge of the
19 occurrence of an injury or disease or be provided notice of
20 the occurrence of an injury or disease on behalf of a member
21 or beneficiary within 90 days from the date of the occurrence
22 of the injury or disease. The bill provides that an action to
23 require the city to provide the cost of the medical attention
24 shall not be maintained unless the action is commenced before
25 the later of two years from the date of the occurrence of the
26 injury or disease or two years from the date the city denies
27 a claim to provide medical attention. However, if the action
28 is related to costs associated with a disease as specified in
29 Code section 411.6(5), the bill provides that the cost of the
30 medical attention shall not be maintained unless the action is
31 commenced within five years from the last date of employment
32 of the member.